C.R.No.271/03

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CIVIL REVISION PETITION NO.271/2003

Firm Ram Ratan Radha Mohan

Vs.

Shiv Charan & Ors.

DATE OF ORDER :: 01/12/2006

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Mahesh Gupta, for petitioners-defendants
Mr. Vijay Singh Shekhawat on behalf of Mr. Ramesh Khandelwal, for respondents-plaintiffs

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Instant revision petition has been filed by the defendants-petitioners questioning the judgment and decree dated 21st January, 2003 passed by the learned trial Judge whereby the suit filed by the non-petitioners-plaintiffs u/s.6 of the Specific Relief Act, 1963 was allowed and while directing to hand over the possession to the plaintiffs-non-petitioners, learned trial Judge has further directed to pay compensation @Rs.3,000/- per month along with interest till restoration of possession to the plaintiffs and title of the disputed property has also been decided in favour of the plaintiffs.

Shri Gupta has submitted that two reliefs, which have been granted by the learned trial Judge; firstly in respect of title and so also awarding compensation till restoration of possession of the suit property, are beyond the scope of Section 6 of

the Specific Relief Act, 1963 and could not have been granted in the suit for restoration of the possession under the Act. This position has not been disputed by the counsel for respondents and both are common on issue that u/s.6 of the Act, it is only restoration of possession which can be examined and other issues are not available for consideration.

Counsel for petitioners after making submissions for sometime on merits submits that after passing of judgment and decree by the learned trial Judge, this court while entertaining the revision petition stayed the operation of judgment impugned. As such they are in possession of Godown and certain goods are still lying there and for disposal of the same, he request for reasonable time by which they can hand over the vacant possession of the suit property [godown] to the non-petitioners-plaintiffs.

Thus, the finding in respect of award of compensation and so also title of the suit property by the learned trial Judge is hereby set aside. Counsel for respondents submits that they will not initiate any other proceedings in regard to compensation granted under the impugned judgment.

After seeking instructions from the client, counsel for respondents submits that whatever reasonable time is considered by this court, they may be granted for handing over vacant possession of Godown which is impugned in the present revision petition.

Since submission on merits of the revision petition has not been made, the revision petition is, accordingly, dismissed. But, before parting with the order and in view of the settlement which has arrived at, I consider it proper to grant the petitioners-defendants three months' time to hand over the vacant possession of the suit property in dispute to the non-petitioners-plaintiffs on or before 2nd March, 2007.

If the petitioners fail to comply with the order as observed, the non-petitioners will be free to file application before this court for necessary orders. Record be sent back to the learned trial Judge.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.